

Remarks

This response to the Official Action is intended to terminate the notice of appeal, which crossed in the mail with the most recent Official Action.

Applicant's attorney and Examiner discussed the independent claims in a telephonic conference of September 14, 2006. Examiner felt that the term "simulating operation" in the preamble of the independent claims did not correspond to the "calculating at least one production quantity" language used in the body of the claims. Applicant's attorney discussed the fact that calculating at least one production quantity was a typical simulation activity. However, no agreement was reached.

On October 4, 2006, Applicant's attorney contacted Examiner after reviewing the Official Action and determining how close Examiner and Applicants were in potentially coming to an agreement on an allowable set of claims. The claim amendment being made was discussed, and Examiner agreed that the claims were potentially allowable, subject to review by Examiner's supervisor.

The preambles of the independent claims have been amended to use the "calculating at least one production

quantity" recited in the body of the claim. No change in scope is intended, as the body of the claims have not been amended. It is not believed that the amendment is related to patentability, because it is believed that the rejection is not proper in light of the arguments made in the telephonic conference of September 14, 2006. However, in the interest of expediting allowance, Applicants are making the amendments to eliminate the last remaining point of contention.

In the telephonic conference of Cotober 4, 2006, Examiner also raised an additional issue regarding whether the language "set of at least one tool" was supported in the specification. It was determined that, at a minimum, "one tool" would support the claim language and that one tool had been disclosed. Upon further examination, the specification explicitly notes that a tool group has one or more tools, which also supports the claim language. (The summary of invention begins "A method and apparatus accepts parameters of one or more *groups of one or more tools* in a production system, including a parameter related to the downtime of any controlling system, such as the percentage of time the controlling system is down." emphasis added). Thus, support exists for the claim language.

The claims are in condition for allowance. Favorable
action is solicited.

Respectfully submitted,

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